REMARKS

Reconsideration of the above-identified application, in view of the following remarks, is respectfully requested. The chemical formula of escitalopram shown on page 2 of the specification has been corrected. Support for this amendment is found at page 1, lines 3-5, of the specification.

Claims 20-40 have been rejected under 35 U.S.C. §102(b) as anticipated by Boegesoe et al. (US Patent 4,943,590).

Applicants respectfully traverse this rejection, and request reconsideration.

The Examiner contends that the phrase "in a patient who failed to respond to initial treatment with a selective serotonin reuptake inhibitor other than escitalopram" in claim 20 should be given no patentable weight

> "because the claim reads on treating depression in a patient in need of treatment. This is interpreted as patients which have responded and not responded to previous treatment for depression."

Office Action at p. 3.

Contrary to the Examiner's contention, the pending claims do not refer to any patients "in need of treatment." Rather, the claims recite treating depression "in a patient who failed to respond to initial treatment with a selective reuptake inhibitor [SSRI] other than escitalopram." The body of claim 20 further recites that the patient is administered a pharmaceutically effective amount of escitalopram or a pharmaceutically acceptable salt thereof. Thus, claim 20 clearly refers to only those patients who are suffering from depression and failed to respond to initial treatment with a SSRI other than escitalopram.

It is improper to read an express limitation out of a claim. *See Texas Instruments Inc. v. U.S. Int'l Trade Comm'n*, 988 F.2d 1165, 26 USPQ2d 1018 (Fed. Cir. 1993); *Ethicon Endo-Surgery, Inc. v. United States Surgical Corp.*, 93 F.3d 1572, 40 USPQ2d 1019 (Fed. Cir. 1996); *Lockheed Martin Corp. v. Space Systems/Loral, Inc.*, 249 F.3d 1314, 58 USPQ2d 1671 (Fed. Cir. 2001). Claim 20, when properly interpreted, does not refer to treating depression in any patient, but instead refers to treating depression in a patient who failed to respond to initial treatment with a SSRI other than escitalopram.

The Examiner also contends that the phrase "administered to obtain an effect in the patient after one week" in claim 21 should be given no patentable weight "because it is well known that the effective onset of treatment of a drug varies depending on the compound and patient." Office Action at p. 3. Irrespective of whether or not this is true, the claim language is limiting. "All limitations in a claim must be considered meaningful." *Lantech, Inc. v. Keip Machine Co.*, 32 F.3d 542, 31 USPQ2d 1666 (Fed. Cir. 1994). Furthermore, as discussed above, it is improper to read an express limitation out of a claim. Accordingly, the phrase "administered to obtain an effect in the patient after one week" should be given patentable weight.

Boegesoe discloses the use of the enantiomers of citalopram to treat depression (col. 1, line 9-26). The pending claims, however, are not directed to the treatment of depression generally. Rather they are specifically directed to the treatment of patients who failed to respond to initial treatment with a SSRI other than escitalopram. Not all depressed patients fail to respond to initial treatment with a SSRI other than escitalopram.

In order for a prior art reference to serve as an anticipatory reference, it must disclose every limitation of the claimed invention. *See* M.P.E.P. §2131; *Merck & Co. v. Teva Pharmaceuticals USA, Inc.*, 347 F.2d 1367, 68 USPQ2d 185 (Fed. Cir. 2003). Because Boegesoe does not teach treating patients who failed to respond to initial treatment with a SSRI other than escitalopram, Boegesoe fails to teach every limitation of the claimed invention.

For the foregoing reasons, claims 20-40 are not anticipated by Boegesoe, and applicants respectfully request withdrawal of this rejection.

In view of the above amendments and remarks, applicants believe that each of the pending claims in this application is in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

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Respectfully submitted,

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